

# **2014 NAB Show**

## **LPTV & the Spectrum Auctions Information Session**

**April 7, 2014  
Las Vegas, NV**

## **THE LPTV INDUSTRY NEEDS TO KNOW**



**WHAT ARE THE FCC'S PLANS FOR  
LPTV IN THE SPECTRUM AUCTION?**



**LPTV**

**Spectrum**

**Rights**

**Coalition**



# Protecting Your Spectrum Usage Rights



**WHO WE ARE**

**We are...**

**100+ independent  
LPTV broadcasters  
>650 stations & CPs  
in 33 states, DC & PR**



WHAT WE DO

Research  
Advocacy  
Lobbying



**RESEARCH**

# LPTV BY THE NUMBERS

**BASED ON MARCH 2014 FCC CDBS DATA**



**LPTV BY THE NUMBERS**

MARCH 2014 FCC CDBS DATA

# 215 Class-A Digital Stations





## LPTV BY THE NUMBERS

MARCH 2014 FCC CDBS DATA

# 712 Digital LPTV Stations



**LPTV BY THE NUMBERS**

MARCH 2014 FCC CDBS DATA

# 5035 Digital Translators



## LPTV BY THE NUMBERS

MARCH 2014 FCC CDBS DATA

**3620**

**Construction  
Permits**



## LPTV BY THE NUMBERS

MARCH 2014 FCC CDBS DATA

**706**  
**Pending**  
**Applications**



## LPTV BY THE NUMBERS

MARCH 2014 FCC CDBS DATA

1718

Total LPTV  
Licensees



## LPTV BY THE NUMBERS

RABBITEARS.INFO ESTIMATE

**183+**  
**Networks**  
**Airing on LPTV**



## LPTV BY THE NUMBERS

COALITION ESTIMATE

**2500+**  
**Digital Channels**  
**Airing on LPTV**



## LPTV BY THE NUMBERS

COALITION ESTIMATE

**14,400 – 28,960**  
**CP Channels**  
**Potential**





## LPTV BY THE NUMBERS

COALITION ESTIMATE

**10,000 LPTV  
6-MHz Channels  
= 60,000 MHz**



**HISTORY LESSON**

# **The Spectrum Auction Act**

**FEB 2012**

One Hundred Twelfth Congress  
of the  
United States of America  
AT THE SECOND SESSION

Begun and held at the City of Washington on Tuesday,  
the third day of January, two thousand and twelve

**An Act**

To provide incentives for the creation of jobs, and for other purposes.

*Be it enacted by the Senate and House of Representatives of  
the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Middle Class  
Tax Relief and Job Creation Act of 2012”.

**Subtitle D—Spectrum Auction Authority**

- Sec. 6401. Deadlines for auction of certain spectrum.
- Sec. 6402. General authority for incentive auctions.
- Sec. 6403. Special requirements for incentive auction of broadcast TV spectrum.
- Sec. 6404. Certain conditions on auction participation prohibited.
- Sec. 6405. Extension of auction authority.
- Sec. 6406. Unlicensed use in the 5 GHz band.
- Sec. 6407. Guard bands and unlicensed use.
- Sec. 6408. Study on receiver performance and spectrum efficiency.
- Sec. 6409. Wireless facilities deployment.
- Sec. 6410. Functional responsibility of NTIA to ensure efficient use of spectrum.
- Sec. 6411. System certification.
- Sec. 6412. Deployment of 11 GHz, 18 GHz, and 23 GHz microwave bands.
- Sec. 6413. Public Safety Trust Fund.
- Sec. 6414. Study on emergency communications by amateur radio and impediments  
to amateur radio communications.



# The Rosenworcel Doctrine\*

\*While serving as Senate Commerce Committee Counsel during the 2012 Voluntary Incentive Auction legislation mark-up

**LPTV are secondary  
for everything!**



# The Rosenworcel Misjudgement\*

\*While serving as Senate Committee Counsel and in charge  
of providing instruction to the CBO

**The CBO should not consider  
LPTV in the scoring of SB.911  
because they are secondary.**

**So the Republicans in the House  
acted and inserted language in the  
2012 Spectrum Auction**

**for LPTV to retain all of their then  
existing “spectrum usage rights”.**

MR. WALDEN  
CHAIRMAN  
OREGON

MS. EDHO  
CALIFORNIA




**“Nothing in this subsection  
shall be construed to alter  
the spectrum usage rights  
of low-power  
television stations.”**

**What if  
the CBO  
had been allowed  
to perform  
a cost estimate  
for SB.911  
with LPTV as  
auction eligible?**



**The answer is easy to figure out,  
and was purposely not allowed to  
be studied by the CBO!**





**The CBO would have learned that the cost to the LPTV industry to pay for their own displacement moves would be over \$1B, which triggers UMRA\*.**

**\*Unfunded Mandates Reform Act**

**Congress was denied this fact finding so no UMRA Part-1 point of order was able to be raised.**



**The CBO would have also have learned that with LPTV as auction eligible the Treasury could receive an additional \$5B-\$10B more than if LPTV were left out of the auction.**

**With LPTV in the auction the opening bids are far lower and when sold the arbitrage is much larger. Simple math.**

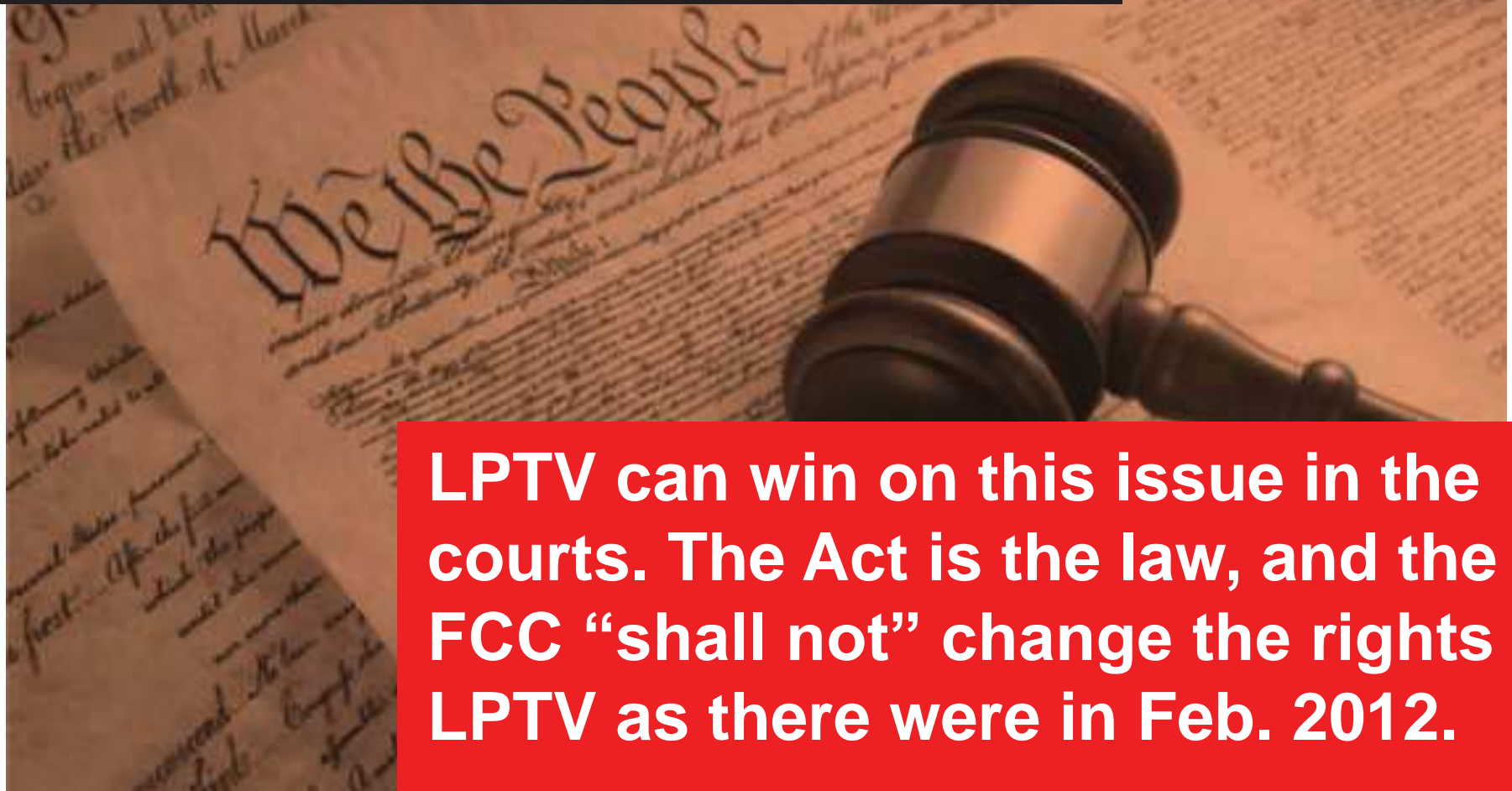
**The FCC can go back  
to Congress to fix the  
Auction and make  
LPTV auction-eligible!**



**\$5B+ more for the Treasury and  
spectrum freed for unlicensed use,  
a \$100B+ annual new industry!**



**Try to change the LPTV rules and the Auction could be delayed.**



**LPTV can win on this issue in the courts. The Act is the law, and the FCC “shall not” change the rights of LPTV as there were in Feb. 2012.**



**REALITY CHECK**

# **Basic Options For LPTV**



## **Basic Options for LPTV**

- 1) Status Quo**
- 2) LPTV Allowed in the Auction**
- 3) A New Auction for LPTV**
- 4) Expansion of the 1999 DDSA**
- 5) Combinations of above**



## **Basic Options for LPTV**

### **1) Status Quo**

- **Auction Happens Without LPTV**
- **LPTV Spectrum Usage Rights Lessen**
- **In Some Markets No Room For LPTV**
- **In Others LPTV Have To Move To VHF**
- **LPTV Forced To Channel Share**
- **\$100 Billion Unlicensed Economy Harmed**



## **Basic Options for LPTV**

### **2) LPTV Allowed In The Auction**

- **\$5-\$7 Billion More For Treasury**
- **Spectrum Freed Up For Unlicensed Use**
- **\$100 Billion Unlicensed Economy Helped**





## **Basic Options for LPTV**

### **3) New Auction For LPTV**

- **\$25 Billion+ More For Treasury**
- **Spectrum Freed Up For Unlicensed Use**
- **\$100 Billion Unlicensed Economy Helped**
- **Will Have To Wait Until 2018+**
- **Severe Current LPTV Business Impacts**



## **Basic Options for LPTV**

### **4) Expansion of the 1999 DDSA**

- **Huge LPTV License Valuation Increase**
- **Rapid New LPTV Innovation Cycle**
- **Huge Boost To Supporting Industry**
- **Support To The National Broadband Plan**
- **Significant Ancillary Fees**



## Basic Options for LPTV

### **5) Combinations**

- **Status Quo & Flex-Use**
- **Status Quo & Eventual LPTV Auction**
- **Others...**

## Federal Rules & Regulations Related To The LPTV/TX Industry

# Status Quo

- § 74.706 — Digital TV (DTV) station protection.
- § 74.707 — Low power TV and TV translator station protection.
- § 74.708 — Class A TV and digital Class A TV station protection.
- § 74.709 — Land mobile station protection.
- § 74.710 — Digital low power TV and TV translator station protection.
- § 74.731 — Purpose and permissible service.
- § 74.732 — Eligibility and licensing requirements.
- § 74.733 — UHF translator signal boosters.
- § 74.734 — Attended and unattended operation.
- § 74.735 — Power limitations.
- § 74.736 — Emissions and bandwidth.
- § 74.737 — Antenna location.

Federal Communications Commission

Before the  
Federal Communications  
Commission  
Washington, D.C.

In the Matter of

Amendment of Parts 73 and 74 of the  
Commission's Rules to Establish Rules for Digital  
Low Power Television, Television Translator, and  
Television Booster Stations and to Amend Rules  
for Digital Class A Television Stations

SECOND REPORT AND ORDER

Adopted: July 15, 2011

Released: July 15, 2011

Communications Act of 1934

## COMMUNICATIONS ACT OF 1934

106TH CONGRESS  
1ST SESSION

# H. R. 486

[Report No. 106-384]

To amend the Communications Act of 1934 to require the Federal Communications Commission to preserve low-power television stations that provide community broadcasting, and for other purposes.

discrimination on the basis of race, color, or national origin

of interstate and foreign communication by wire or radio

of the United States of America

## PROVISIONS

### I. CREATION OF FEDERAL

commerce in communication by wire and radio, and the people of the United States, without regard to race, color, or sex, a rapid, efficient, Nation-wide system of communication by wire and radio.

# Operate Under The Current Rules And Spectrum Usage Rights LPTV Has And Were Affirmed In The Governing LPTV Laws

# The Auction NPRM

Federal Communications Commission

FCC 12-118

Before the  
Federal Communications Commission  
Washington, D.C. 20554

## NOTICE OF PROPOSED RULEMAKING

Released: October 2, 2012

Adopted: September 28, 2012

Comment Date: December 21, 2012  
Reply Comment Date: February 19, 2013

By the Commission: Chairman Genachowski and Commissioners McDowell, Clyburn, and Rosenworcel  
issuing separate statements; Commissioner Pai approving in part, concurring in part  
and issuing a statement.

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### Assignment Procedures

41. *Assignment Procedures in General.* The second auction design element procedures used to decide which bids are accepted and which are rejected, thereby determining which stations remain on the air—is significantly more complicated in this reverse auction than current spectrum usage rights are assigned channels ("repacked"), taking into account requirements and other constraints. We consider engineering and other technical aspects of the process in section V below, but here we discuss briefly the repacking process as it relates to assignment procedures.

### ECFS Main Links

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- Proceeding Number is 12-268
- Name of Filer contains 'LPTV Spectrum Rights Coalition'
- Date Received is on or after 04/07/2013

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Proceeding Number	Name of Filer
GN 12-268	<a href="#">LPTV Spectrum Rights Coalition View (1)</a>
GN 12-268	<a href="#">LPTV Spectrum Rights Coalition View (7) View (3) View (1)</a>
GN 12-268	<a href="#">LPTV Spectrum Rights Coalition View (2)</a>
GN 12-268	<a href="#">LPTV Spectrum Rights Coalition View (2)</a>
GN 12-268	<a href="#">LPTV Spectrum Rights Coalition View (5)</a>
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GN 12-268	<a href="#">LPTV Spectrum Rights Coalition View (2) View (3)</a>
GN 12-268	<a href="#">LPTV Spectrum Rights Coalition LPTV SPECTRUM RIGHTS BRIEFING (3)</a>
GN 12-268	<a href="#">LPTV Spectrum Rights Coalition Unlicensed LEARN Session Clarifications (6)</a>
GN 12-268	<a href="#">LPTV Spectrum Rights Coalition FCC Chairman Ex Parte (3)</a>
GN 12-268	<a href="#">LPTV Spectrum Rights Coalition Clarification of Comments (2)</a>
GN 12-268	<a href="#">LPTV Spectrum Rights Coalition LPTV Flex-Use Service Waivers (6)</a>
GN 12-268	<a href="#">LPTV SPECTRUM RIGHTS COALITION NPRM Comments (5) 2000 DDSA Legislation (1) 2002 Reconsideration (1)</a>
GN 12-268	<a href="#">LPTV Spectrum Rights Coalition Summary (8) Presentation (37)</a>
GN 12-268	<a href="#">LPTV Spectrum Rights Coalition View (1) View (1)</a>
GN 12-268	<a href="#">LPTV Spectrum Rights Coalition View (1) View (3)</a>
GN 12-268	<a href="#">LPTV Spectrum Rights Coalition View (3)</a>

## Coalition Has More Than 20 Filings Which Cover Most All Aspects Of LPTV Impacts...including



# SPECTRUM INCENTIVE AUCTION UNHARMONIZED TIMELINES

2012 2013 2014 2015 2016 2017 2018 2019 2020 2021 2022



Enacted Federal Law Timeline To Complete Process.....10 yrs.



Current FCC process

NPRMs....Auction/Repack

All payments to be made within 3 yrs...



Can only happen if all work is done!



LPTV & TX  
Displacement Filings

LPTV  
DTV CPs Deadline

These two dates do not match!

This is only 2 stations per 210 DMA!!!!!!

Harris estimates that there is a shortage of tower crews  
14 crews x 5 wks./tower x 3 yrs. = 434 stations

ATSC 2.0...Specifications.....Implementation...

ATSC 3.0...Specifications.....

.....Implementation



ITF Broadcast  
Adoption.....Implementation?



Will this solve the spectrum crunch? NO!

Future TV standard, why not wait until it is ready????



When will "spectrum crunch" really happen?

First it was here.....then here.....maybe here.....so when????????????????????



# Latest Filing

CONFIDENTIAL

## SPECTRUM AUCTION TASK FORCE PROPOSED LPTV DISPLACEMENT & REPACKING SCHEDULE

as described in an March 11<sup>th</sup>, 2014 ex parte meeting with Task Force and Media Bureau Video Division

<b>FEB 2012</b> SPECTRUM AUCTION ACT PASSES	<b>SEPT 2012</b> NPRM ISSUED	<b>MAY/JUN 2014</b> REPORT & ORDER ISSUED But there may be a rolling multi- month approval process	<b>SUMMER 2015</b> AUCTION BEGINS Assumes no legal challenges AND Assumes Dems retain control of the Senate	<b>FALL 2015</b> AUCTION CLOSES	<b>JAN 2016</b> > WINNING BIDDER PAYMENTS DUE  > PRIMARY & CLASS-A RELOCATION FUNDS AVAILABLE AND REPACKING STARTS  > LPTV DISPLACEMENTS BEGIN BUT FILINGS NOT ALLOWED	<b>JAN 2019</b> > RELOCATION FUNDING ENDS  > LPTV REPACK BEGINS
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.....7 months.....21 months.....12 months.....3 months.....36 months.....>>>>>>  
TOTAL 7 YEAR PROCESS

### TROUBLING EXAMPLES:

- An LPTV licensee within the new National Band Plan (32-50) is displaced in month 4 post-auction. The winning wireless bidder immediately wants access to the spectrum they have won and paid for. The LPTV licensee has 60-days to cease operation and file for the new channel.
- An LPTV licensee within the new National Band Plan (32-50) is displaced in month 4 post-auction. The winning wireless bidder immediately wants access to the spectrum they have won and paid for. The LPTV licensee has 60-days to cease operation and file for the new channel.
- An LPTV licensee within the new National Band Plan (32-50) is displaced in month 4 post-auction. The winning wireless bidder immediately wants access to the spectrum they have won and paid for. The LPTV licensee has 60-days to cease operation and file for the new channel.

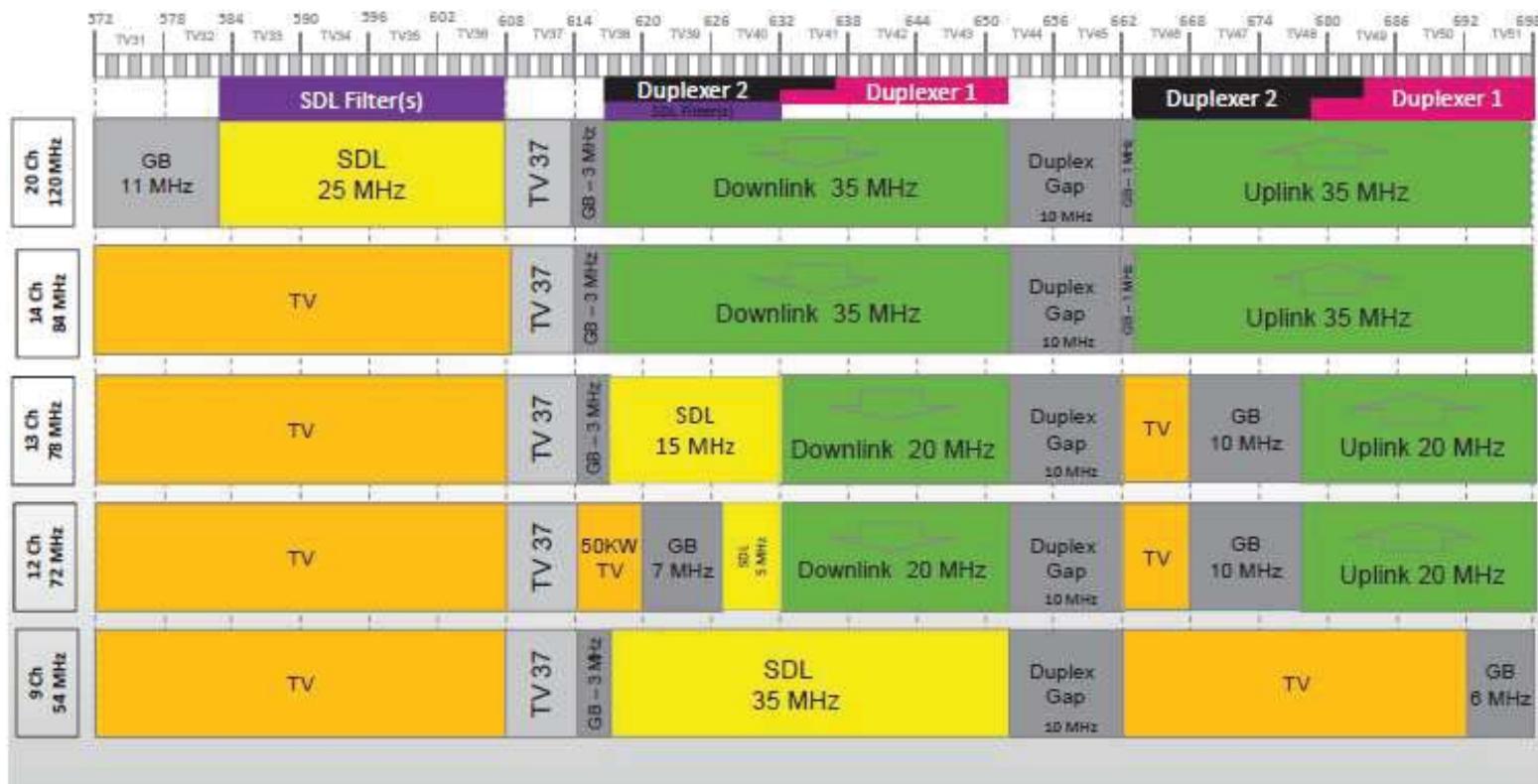
**Are you prepared to have to wait until month-40 post auction to file a displacement application?**

# There are many variations of a new National Band Plan

Support for 35x35 MHz “Down from 51” Plan  
35x35 MHz Plan Accommodates Variations



T-Mobile / Verizon Joint Band Plan





A group of diverse professionals, including men and women of various ethnicities, are smiling and looking towards the camera. The woman in the foreground is a Black woman with dark hair, wearing a dark blazer over a light-colored shirt. The background is a warm, orange-toned gradient.

**LPTV is the most diverse of all  
of the broadcasting services!**

**So why is the FCC trying to eliminate it, and to drastically  
reduce opportunities for women, minority ownership,  
and the diverse programming using it**



## 200+ Programming Networks Utilize LPTV

**2500+  
LOCAL  
& DIVERSE  
CONTENT  
CHANNELS**

Sample data from RabbitEars.info – July 2013

# OF NETWORKS	NETWORK CONTENT AND DEMO FOCUS	# OF DTV CHANNELS
43	HISPANIC	850
23	RELIGIOUS	550
33	ETHNIC	182
25	FAMILY/CLASSIC TV	260
13	GOVERNMENT	141
6	SHOPPING	120
5	MUSIC OR AUDIO	153
3	WEATHER	134
3	AFRICAN AMERICAN	100

# ...but what has happened in the last 5 years? The FCC does not know.

**A 2009 survey of LPTV stations conducted by the CBA (Community Broadcaster Association) discovered the following**

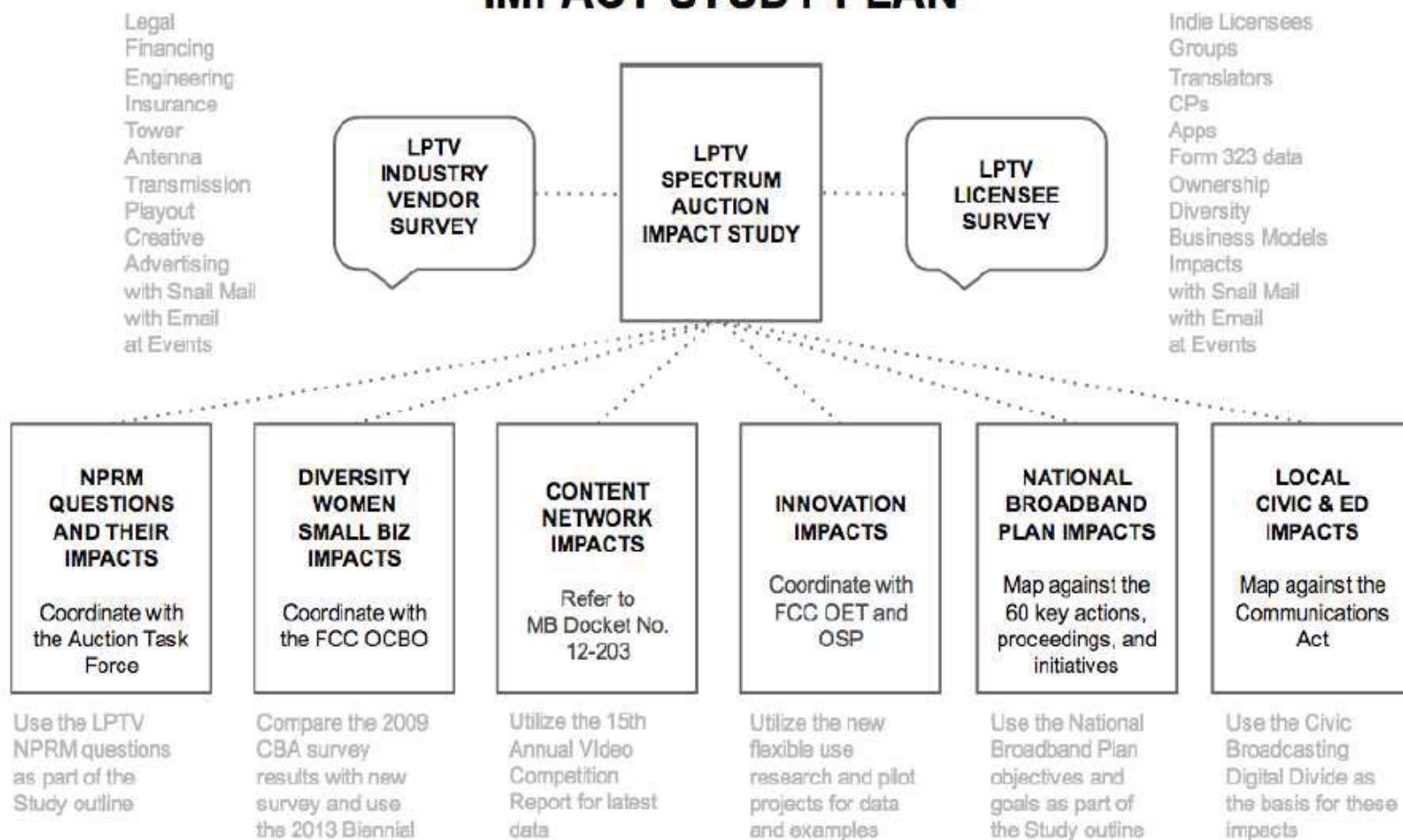
- 57% of LPTV stations have been on the air for more than 10 years
- 20% of LPTV stations have at least 10 employees
- 45% of LPTV stations are owned or partially owned by a minority.
  - 43% of these stations a minority owns at least 51% of the station
  - 24% of LPTV owners are Hispanic
  - 10% of LPTV owners are African American
  - 3% of LPTV owners are Asian
  - 3% of LPTV owners are Native American
  - 34% of LPTV owners are multi-racial
- 60% of LPTV stations are owned or partially owned by females.
- 66% of LPTV stations offer at least some foreign-language programming
- 78% of LPTV stations that offer foreign language programming air at least 10 hours weekly of foreign language programming.
- 83% of LPTV stations have local programming
- 49% of LPTV stations that have local programming air at least 10 hours of local programming each week.
  - 55% offer religious local programming
  - 38% offer family oriented local programming
  - 36% offer local sports programming
  - 31% offer local news
  - 28% offer foreign-language local programming



The FCC  
has not  
done any  
LPTV  
research...

So we are  
having to do it  
ourselves!

## LPTV SPECTRUM AUCTION IMPACT STUDY PLAN



## Does the FCC have “animus” towards the LPTV service



**Not one dollar of LPTV fees has been spent for years on LPTV research and issues. We pay our licensing fees so we want equal access to resources and services.**

**Some Commissioners, Bureau's, and the Chairman himself will not meet with LPTV licensees. There is a pattern emerging....**



**KEY LPTV RIGHTS**

# **Your Right Of Displacement**



**KEY LPTV RIGHTS**

# **Your Right Of Extensions**



**KEY LPTV RIGHTS**

# **Your Right Of Modifications**





**KEY LPTV RIGHTS**

# **Your Right Of Interference Protection**



**KEY LPTV RIGHTS**

# **Your Right Of Service Waivers**



**KEY LPTV RIGHTS**

# **Your Right Of Innovation**



**THE BASICS**

# Key LPTV Needs



## KEY LPTV NEEDS

**Strict Adherence  
In The Report & Order  
To The Spectrum  
Auction Act**



**KEY LPTV NEEDS**

# **Solution For The Construction Permit Crunch**



## KEY LPTV NEEDS

**Eliminate Forced  
Double Building  
Of Facilities**



## KEY LPTV NEEDS

# Immediate Post-Auction Displacement Applications





## KEY LPTV NEEDS

**May Stay  
On-Channel Until  
Wireless Bidders  
Build-Out**



## KEY LPTV NEEDS

**No Displacement  
While Cross-Border  
Issues Remain**



## KEY LPTV NEEDS

**No Forced  
Channel Sharing  
Arrangements**



## KEY LPTV NEEDS

# LPTV Impact Statement In The Report & Order



## KEY LPTV NEEDS

# Explanation Of The FCC LPTV Auction Authority Stated Within The NPRM



## KEY LPTV NEEDS

**Congressional  
Ask For A CBO  
Study of LPTV  
As Auction-Eligible**



## KEY LPTV NEEDS

# FCC To Ask Congress For A New Class-A Window



## KEY LPTV NEEDS

**Expansion To  
All LPTV Licensees  
Of The 1999 Digital  
Data Services Act**





## SOLUTIONS MATRIX

**CONGRESS**

**COURTS**

**FCC  
COMMISSIONERS**

**FCC  
STAFF**



# CONGRESS



REP. ESHOO



REP. WALDEN



SEN. MARKEY



SEN. THUNE



# THE HARD QUESTIONS



Our Guest  
**William T. Lake**  
Chief, FCC Media Bureau



## THE HARD QUESTIONS

**Is There Really  
A Spectrum  
Crunch?**



## THE HARD QUESTIONS

**Why Was LPTV  
Excluded From  
The Auction?**



## THE HARD QUESTIONS

**Has The Definition  
Of Secondary  
Changed?**



## THE HARD QUESTIONS

**Why Is The  
Process Taking  
So Long?**



## THE HARD QUESTIONS

**Will The FCC  
Interpret The Act  
Or Strictly Adhere  
To It?**





## THE HARD QUESTIONS

**Does The Legislation  
Specify The Clearing  
Of 120-MHz?**



## THE HARD QUESTIONS

**Will Channels 50-38  
Be Cleared  
No Matter What?**



## THE HARD QUESTIONS

**What Will Make  
Channels 36-32  
Have To Be Cleared?**



## THE HARD QUESTIONS

**Will The FCC  
Go Back To Congress  
To Fix The Act?**



## THE HARD QUESTIONS

**Why Are LPTV  
Not Being Paid  
For Relocating?**



## THE HARD QUESTIONS

**Will Cross-Border  
Issues Slow Down  
Displacements?**



## THE HARD QUESTIONS

**Will Any Group  
Get A Priority  
In The Repacking?**



## THE HARD QUESTIONS

# What Is A Fair Mutual Displacement Process For LPTV?





## THE HARD QUESTIONS

**Will The Size Of The  
Guard Bands Adhere  
To The Act?**



## THE HARD QUESTIONS

**Will The FCC Use  
Station Coverage  
Areas vs DMA For  
Translator Priorities?**



## THE HARD QUESTIONS

**What Will Happen To  
The 180+ Networks  
Which Air On LPTV?**



## THE HARD QUESTIONS

**Would The FCC  
Support The Expansion  
Of The 1999 DDSA?**



## THE HARD QUESTIONS

**When Will 3<sup>rd</sup> CPs  
Be Acted On  
By The Commission?**



## THE HARD QUESTIONS

**Can You Envision  
A Separate Auction  
For LPTV Someday?**



## THE HARD QUESTIONS

**Are LPTV  
Broadcasters?**



## THE HARD QUESTIONS

**Why Has LPTV  
Not Been Given  
A LEARN Session  
Yet?**





# AUDIENCE Q&A



**Peter Tannenwald**  
Communications Attorney  
Fletcher, Heald, Hedreth

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for your support  
to...**

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## Post-Event Notes

**By the next day the Coalition added an additional 203 stations and construction permits to its roster, as well as 7 national programming networks.**



## Post-Event Notes

**5 Key Recommendations About LPTV Were Made By FCC Media Bureau Chief Lake During The Session....(our “wins”)**



**Win #1**

**A new separate NPRM will  
be issued for LPTV  
following the current one  
which will soon end.**

**We have been pushing for this so our filings are not  
swamped by the other industry groups and so we can get  
new issues into the Proceedings which we need  
addressed.**





## Win #2

**The Sept. 2015 final analog to digital conversion date may be pushed back to harmonize with the auction process.**

The Coalition has made this argument in numerous filings and meetings. It is one of the most important issues we face with more than 3000 outstanding A-D conversions and 2009 rural filing window CPs.



**Win #3**

**The filing of displacement applications will take place 6 months post-auction instead of waiting 40 months.**

This was a new battle we engaged in just a month ago and we got a dramatic change in the FCC's position on it quickly. Current LPTV usage rights say we can file immediately so we are still fighting this one.



**Win #4**

**The FCC will use the auction software *TV Study* and its feasibility checker to help assign new channels for LPTV post-auction.**

The Coalition has been fighting for this since the savings to the LPTV industry by the FCC providing it for free would save LPTV a lot of money.



**Win #5**

**There will not be any repacking priorities for LPTV stations such as women, ethnic, small biz, local, or faith.**

The Coalition agrees with this but did suggest that civic and local news be given some sort of priority in the repack. But due to 1<sup>st</sup> Amendment issues, we totally agree with this approach. It also means a major network affiliate carried on LTPV does not jump the line vs. an indie station.



**Win #6**

**The full power stations will only be able to carry with them the translators that are within its 51-dB contours.**

NAB wants all translators, even ones 100 miles away or more from the transmitting station, to have a repack priority. The Coalition has been arguing against this. The Act specifically says the station contour is to be used. While this does not help our translator members, it keeps the strict adherence to the Act principle in place.



**Win #7**

# **LPTV channel-sharing will be voluntary and not forced on LPTV licensees.**

The Coalition has been pushing for this a lot, but it will mean that LPTV licensees will have to work together to get this done. Otherwise there will be an auction for the remaining channel slots. The concept of an LPTV neighborhood was also brought up and could be a valuable tool in highly constrained markets.



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